

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF NORTH CAROLINA  
WESTERN DIVISION

No. 5:08-CR-00060-F-1

No. 5:13-CV-00100-F

TIMOTHY TYRONE HORTON,  
Petitioner

v.

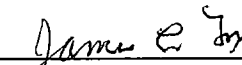
UNITED STATES OF AMERICA,  
Respondent.

ORDER

This matter is before the court on Objections [DE-165] to the Order and Memorandum and Recommendation [DE-164] of United States Magistrate Judge Kimberly A. Swank, regarding Timothy Tyrone Horton's Motion to Vacate, Set Aside, or Correct Sentence pursuant to 28 U.S.C. § 2255 [DE-153]. In his Objections, Horton requests an additional ninety (90) days to amend his § 2255 motion to include new claims of ineffective assistance of counsel. Objections [DE-165] at 2-5. The Government argues that these claims would be untimely and do not "relate back" under Federal Rule of Civil Procedure 15(c)(1). Response [DE-166] at 1-2. The court cannot make a determination on whether Horton's claims relate back to his timely-filed § 2255 motion until the claims are filed. Accordingly, Horton shall have ninety (90) days to file his motion to amend.

SO ORDERED.

This the 16<sup>th</sup> day of September, 2015.



James C. Fox  
Senior United States District Judge